

# Senate Study Bill 1128 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

## A BILL FOR

1 An Act relating to the awarding of costs and reasonable  
2 attorney fees regarding certain motions to dismiss to a  
3 prevailing party in a civil action and including effective  
4 date and applicability provisions.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.    625.30   Costs — attorney fees —  
2 prevailing parties.

1. Notwithstanding any law to the contrary, in a civil action, if the court grants or denies a motion to dismiss for failure to state a claim upon which any relief may be granted, the court shall award costs and reasonable attorney fees to the party prevailing on the motion if that party also prevails in the action on the issue.

2. If the court partially grants the motion to dismiss or if each party partially prevails in the action, the court shall determine the extent to which each party is entitled to costs and reasonable attorney fees under this section and award costs and attorney fees accordingly.

14       3. This section does not apply to actions by or against the  
15 state, other governmental entities, or public officials acting  
16 in their official capacity or under color of law.

17       Sec. 2. LEGISLATIVE PROPOSALS. The supreme court shall  
18 submit legislative proposals, no later than November 27, 2017,  
19 to the senate and house of representatives standing committees  
20 on judiciary to amend the Iowa Code to resolve inconsistencies  
21 and conflicts and to remove ambiguities in order to fully  
22 implement this Act.

23       Sec. 3.   EFFECTIVE DATE.   This Act takes effect July 1, 2018,  
24 except for the section of this Act that requires the supreme  
25 court to submit legislative proposals to the senate and house  
26 of representatives standing committees on judiciary regarding  
27 this Act.

28       Sec. 4. APPLICABILITY. This Act applies to causes of action  
29 accruing on or after July 1, 2018.

30	EXPLANATION
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31 The inclusion of this explanation does not constitute agreement with  
32 the explanation's substance by the members of the general assembly.

33       This bill relates to the award of costs and reasonable  
34 attorney fees regarding certain motions to dismiss to a  
35 prevailing party in civil actions.

1 Under current law, subject to certain exceptions, each party  
2 to a civil lawsuit is responsible for its own attorney fees.  
3 The bill provides that if the court grants or denies a motion  
4 to dismiss for failure to state a claim upon which any relief  
5 may be granted, the court shall award costs and reasonable  
6 attorney fees to the party prevailing on the motion if that  
7 party also prevails in the action on the issue. If the court  
8 partially grants the motion or if each party partially prevails  
9 in the action, the bill requires the court to determine the  
10 extent to which each party is entitled to costs and reasonable  
11 attorney fees and to award the costs and attorney fees  
12 accordingly.

13 The bill requires the supreme court to submit legislative  
14 proposals, no later than November 27, 2017, to the senate and  
15 house of representatives standing committees on judiciary to  
16 amend the Iowa Code to resolve inconsistencies and conflicts  
17 and to remove ambiguities in order to fully implement the bill.

18 The bill takes effect July 1, 2018, except for the  
19 requirement that the supreme court submit legislative proposals  
20 to the senate and house of representatives standing committees  
21 on judiciary.

22 The bill applies to causes of action accruing on or after  
23 July 1, 2018.